

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DAVID R. ANDERSON,

Plaintiff,

vs.

OCWEN LOAN SERVICING, LLC, and  
AMERICAN MODERN INSURANCE  
GROUP,

Defendants.

**4:17CV3054**

**FINDINGS AND  
RECOMMENDATION**

This case was removed to federal court by Defendants in April of 2017. A telephonic conference was scheduled for October 20, 2017 to discuss case progression. The notice of hearing and call conferencing information was mailed by the Clerk to Plaintiff. The mailing was not returned.

Plaintiff did not participate in the scheduled conference call, ([Filing No. 25](#)), and as of that date, Plaintiff had filed nothing during the six months the case was pending in this forum. The undersigned magistrate judge entered findings and a recommendation that the case be dismissed for want of prosecution. ([Filing No. 26](#)).

Plaintiff requested reconsideration of the findings and recommendation. ([Filing No. 27](#)). His request was mailed from the court's address of record for this Plaintiff. ([Filing No. 27, at CM/ECF pp. 1, 3](#)). Upon consideration of Plaintiff's response, the assigned district judge did not dismiss the case, instead remanding it to the undersigned magistrate judge "for reconsideration of the issue of whether it should be dismissed for lack of prosecution and, if so, whether the dismissal should be with or without prejudice." ([Filing No. 28](#)).

After reviewing Plaintiff's request, the undersigned magistrate judge concluded Plaintiff should be afforded an additional opportunity to pursue this case for a decision on the merits. To that end, an order was entered setting a telephonic conference to be held on December 12, 2017 at 1:00 p.m. The order included toll-free information for dialing into the conference, and it was mailed to Plaintiff by the Clerk at Plaintiff's address of record.

The conference call was convened today as scheduled. Counsel for both defendants participated. As with the prior conference call, the court and defense counsel did not begin the hearing itself until ten minutes after it was set to begin. Plaintiff did not participate, and did not contact the court to explain his absence or any difficulty he was having with joining the phone call.

Accordingly,

IT IS RECOMMENDED to the Honorable Richard G. Kopf, United States District Judge, pursuant to 28 U.S.C. § 636(b), that Plaintiff's claims be dismissed with prejudice for want of prosecution.

The parties are notified that failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation.

December 12, 2017.

BY THE COURT:  
s/ Cheryl R. Zwart  
United States Magistrate Judge